

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AVIGAIL LEWIS BITON, et al.,

Plaintiffs,

01-00382(RMC)(JMF)

v.

THE PALESTINIAN INTERIM SELF-GOVERNMENT AUTHORITY, et al.,

Defendants.

DECLARATION OF BRIGADIER GENERAL (RES.) YOSEF KUPERWASSER

I, Yosef Kuperwasser, of Rosh Ha'Ayin, Israel, declare pursuant to 28 U.S.C. § 1746, as follows:

Professional and Educational Background

1. For over three decades I have served as an officer in the Israel Defense Forces ("IDF"), primarily in the IDF Intelligence Branch.

2. Between 1992 and 1994 I served as Israel's Assistant Defense Attaché in the United States, and was based at the Israeli Embassy in Washington D.C..

3. Between 1998 and 2001 I was the Chief Intelligence Officer of the IDF Central Command, which is responsible, *inter alia*, for IDF activities in the West Bank.

4. In 2001, I was appointed as the Director of the Research Division of the IDF's Intelligence Branch. I held that position until June 2006, when I retired from active duty in the IDF with the rank of Brigadier General.

5. As Director of the Research Division of the IDF's Intelligence Branch I was responsible, *inter alia*, for providing on-going intelligence reports, surveys and assessments to the IDF General Staff, to Israel's Defense Minister and Prime Minister, to the Israeli Cabinet and to

the Foreign Affairs and Defense Committee of the Knesset (Israel's parliament), and for preparing Israel's annual National Security Assessment.

6. I hold a B.A. in Arabic language and literature from Haifa University and an M.A. in Economics from Tel Aviv University.

7. During 2006-2007 I was a Visiting Fellow at the Saban Center for Middle East Policy at the Brookings Institution in Washington D.C..

8. Though I left active service in the IDF in June 2006, the IDF and other agencies of the Israeli government continue to consult with me about defense and intelligence matters. I am also frequently consulted as an expert on Palestinian and Middle East affairs by Israeli and American news media, and I have researched and published a number of articles and monographs relating to these topics.

9. I have also been consulted as a Subject Matter Expert for the Homeland Security Advisory Council Future of Terrorism Task Force of the United States Department of Homeland Security.

10. In order to be able to provide accurate information to the bodies that consult with me, and as part of my research and publishing activities, I keep abreast of developments in the West Bank and Gaza Strip, and regularly follow the Palestinian print and electronic media.

11. The facts testified to in this Declaration are all public knowledge and are well known (and indeed obvious) to residents of the West Bank and the Gaza Strip, and to many people in Israel. At the same time, by virtue of my professional activities, I have acquired a broad "bird's-eye" knowledge of the facts on the ground in the West Bank and Gaza Strip that are attested to herein. Thus, my testimony herein is based both on direct personal knowledge, and

upon the various sources of information described above, all of which are regularly relied upon by experts in my profession.

The Gaza Strip Following Israel's Disengagement

12. In 1994, Israel withdrew its military personnel from approximately 80% of the interior of the Gaza Strip, pursuant to the Oslo Accords.

13. Between 1994 and September 2005, Israeli military personnel remained deployed in the interior of Gaza only in certain military installations and delineated security zones (about 7% of the Gaza Strip), and in the four specific locales containing Jewish communities (comprising together about 13% of the Gaza Strip) and on access roads serving those communities.

14. In 2004, the Israeli government formulated and approved a plan, termed the "Disengagement Plan", to remove the remaining Israeli military personnel from the interior of the Gaza Strip, and to evacuate the Jewish residents of Gaza.¹

15. The Disengagement Plan was implemented in August-September 2005. The forced evacuation of Jewish residents of Gaza commenced on August 17, 2005, and was completed on August 22, 2005. The remaining Israeli military personnel left the interior of the Gaza Strip shortly thereafter, on September 12, 2005.

16. Though the Israeli government and the IDF hoped that the Palestinian Authority ("PA") would be able to impose authority over the areas of the Gaza Strip evacuated pursuant to the Disengagement Plan, we had serious concerns that the PA would be unable to do so. These concerns arose from the fact that the PA has never been able to assert effective governmental authority even in the areas from which Israel had withdrawn in 1994. On the contrary, since 1994,

¹ The Disengagement Plan also provided for the evacuation of four small settlements in the West Bank. I address that element of the Disengagement Plan in the following section of this Declaration.

much of the power in the Gaza Strip has been wielded not by the PA, but by local clans, organized crime families and various terrorist organizations, particularly Hamas.

17. Unfortunately, our concerns proved well founded. The PA failed to take control over the areas evacuated. Only hours after the last Israeli military personnel left the Gaza interior early on the morning of September 12, 2005, thousands of Palestinian looters, accompanied by criminal gangs and members of the Hamas terrorist group, overran the evacuated areas, destroyed the synagogues (the only buildings left standing) and dismantled and stole components of agricultural greenhouses which had been left intact for the benefit of the Palestinians.

18. Subsequently, terrorist organizations, as well as various organized crime families and gangs, moved into the areas evacuated by Israel, fenced them off and seized control. The PA was unable to prevent this seizure. The terrorist groups set up training bases in these areas.

19. Much more importantly, the implementation of Disengagement Plan triggered a severe deterioration, throughout the entire Gaza Strip, of the already-limited authority exercised in Gaza by the PA.

20. Starting in September 2005, the various terrorist groups, organized crime families and local clan-affiliated militias² that had effectively shared power with the PA since 1994, began jockeying to increase their power and control in Gaza.

21. In the context of this power struggle these armed groups battled both one another and the PA for authority at the expense of ordinary Palestinians who were often caught (both literally and figuratively) in the cross-fire. As a result, a state of growing lawlessness and chaos

² There are over 50 such extended-family clans scattered throughout the Gaza Strip, each numbering between several hundred and several thousand members, many of which possess their own significant arsenals of weapons.

(which had existed to a lesser extent even prior to September 2005) spread throughout the Gaza Strip.

22. The PA continued to progressively lose power in the Gaza Strip during the rest of 2005. In January 2006, elections were held for the PA's legislative council, and Hamas won a majority of seats. Hamas' takeover of the legislative council further catalyzed Hamas' role in the power struggle in the Gaza Strip, and the PA's authority on the ground in Gaza deteriorated even more, while Hamas' power increased, through 2006 and into the first half of 2007.

23. In June 2007, Hamas launched a wide-scale attack on PA security and police personnel and posts throughout the Gaza Strip. Hamas quickly routed the PA forces, many of whom were killed and captured, and destroyed or took control of all of the PA's security and police posts and the PA's governmental offices throughout the Gaza Strip.

24. Thus, as of June 2007, the Palestinian Authority exercises no control, authority or power whatsoever in the Gaza Strip.

25. Simply put, the PA does not govern Gaza today in any manner.³

26. In summary of this section: (a) even prior to September 2005 the PA had only limited actual power in the areas evacuated by Israel in 1994; (b) the PA failed to take control of the areas evacuated by Israel in September 2005; (c) from September 2005 until June 2007 the PA progressively lost, throughout the entire Gaza Strip, even what little power it had previously had in Gaza; and (d) as of June 2007 the PA no longer exercises any power or control in Gaza.

³ Though the PA is gone, it would not be accurate to say that the Gaza Strip is controlled today by Hamas. While Hamas is the dominant actor in Gaza, the other armed groups described above (organized crime families and militias associated with the various local clans) retain significant power in many regions of Gaza and are not under Hamas' control or authority.

The West Bank Following the Disengagement Plan

27. Any discussion of the state of affairs in the West Bank today necessarily begins in September 2000, when a wave of anti-Israel terrorist violence – which would continue for several years to come – erupted in the West Bank, Gaza and Israel itself. The Palestinian Authority contributed to this violence both actively and passively: actively, the PA and its security forces directly participated in and supported terrorist attacks; passively, the PA allowed terrorist cells to operate freely in areas in which it was responsible for law enforcement (Area A), by refusing to exercise the law enforcement powers granted it under the Oslo Accords. Thus, beginning in fall 2000, the PA ceased to exercise the law enforcement authority granted it in the Oslo Accords.

28. This state of affairs continued through 2001, and into 2002. In March 2002, over 130 Israelis were murdered in a string of terrorist bombings and shootings carried out by Palestinian terrorists. The most horrific of these was a suicide bombing at a Passover holiday *seder* at the Park Hotel in the coastal town of Netanya on March 27, 2002, in which 30 people – most of them elderly – were murdered, and another 140 injured.

29. In response to this escalation of terrorism, on March 28, 2002, the Israeli Cabinet authorized the Israel Defense Forces (“IDF”) to conduct a wide-ranging military operation against the terrorist infrastructure in the West Bank. That operation, named “Operation Defensive Shield”, was launched several days later.

30. Operation Defensive Shield lasted for approximately six weeks and involved tens of thousands of soldiers. In the course of the operation, the IDF deployed and operated freely in the areas of the West Bank that were designated in the Oslo Accords as “Area A” (the areas in which the PA was authorized to exercise the maximum authority granted it under the Oslo

Accords). In other words, during Operation Defensive Shield the situation that had existed prior to the establishment of the PA in 1994, in which the IDF was present and operating freely throughout the entire West Bank, was restored.

31. While Operation Defensive Shield officially ended in early May, 2002, the status quo ante has never been restored. IDF forces (in smaller numbers of course) remain deployed throughout most of the West Bank, and on the perimeters of the large Palestinian cities. The IDF conducts counterterrorism operations at will throughout the West Bank, including in Area A, as the need arises. The PA does not interfere with IDF operations anywhere in the West Bank, including in Area A, and moreover has no ability to do so.

32. I also note that the PA's security and police forces were significantly weakened as a result of Operation Defensive Shield. Though the PA employs security personnel, they are ineffective, and do not operate as more than local patrolmen and security guards.

33. Thus, the PA cannot and does not exercise today even the limited security authority granted it under the Oslo Accords; it has not done so since fall 2000, and has been unable to do so since April 2002.

34. The implementation of the Disengagement Plan has done absolutely nothing to alter this state of affairs.

35. Under the Disengagement Plan, Israel evacuated four small settlements in the northern West Bank (best described as outposts or tiny villages) containing a total of some 200 families.

36. Because the areas on which these evacuated settlements once sat remain defined today as part of "Area C" (in which, pursuant to the Oslo Accords, Israel has full security authority and the PA has none), the evacuation of those settlements has had no effect whatsoever

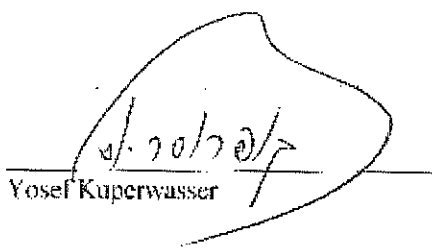
on the IDF's control and authority over those areas (or over any other area of the West Bank). The IDF did not withdraw from these evacuated areas, and it continues to control them and operate freely therein, just as it did previously. By contrast, PA personnel have no presence in the evacuated areas.

37. In short, any claim that the Disengagement Plan reduced Israel's control of the West Bank is entirely baseless.

38. In summary of this section: (a) in fall 2000 the PA ceased to exercise the security powers granted to it under the Oslo Accords (b) since April 2002 until the present the IDF has been widely deployed throughout the West Bank (c) since April 2002 until the present the PA has been incapable of exercising the security powers granted to it under the Oslo Accords (d) the Disengagement Plan did not reduce Israel's control of the West Bank in any manner.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

September 10, 2007


Yosef Kuperwasser